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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/128,721	08/04/1998	TODD ROBERT CARROLL	11632N.020880	3309
32885	7590	11/02/2005	EXAMINER	
STITES & HARBISON PLLC 424 CHURCH STREET SUITE 1800 NASHVILLE, TN 37219-2376			SINGH, ARTI R	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/128,721	Applicant(s) CARROLL, TODD ROBERT	
	Examiner Ms. Arti Singh	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 51-60 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| <p>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date ____.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
 Paper No(s)/Mail Date. ____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: ____.</p> |
|---|---|

DETAILED ACTION***Response to Amendment***

1. The Examiner has carefully considered Applicant's amendments and accompanying remarks filed on 08/16/05. Applicant's amendments have been entered, with the status of the claims being; 1-50 all cancelled, and 51-61 pending. Although amended the claims still do not specifically point out and distinctly claim what the composite is made of. As a courtesy to Applicant this action is being made non-final, as it appears that throughout the prosecution history there have been several misguided actions and communications. Applicant's claims are still indefinite. It is highly suggested that Applicant diagram out the claims in drawings or even in their response diagrammatically show the positioning of the layers, because currently the drawings that were originally submitted only support a three layered composite at most. Also in the claims perhaps the language should clearly read wherein each of the layers are clearly defined by proximity to one another and their chemical make up, such as

Claim 51. A chemical barrier composite comprising:

- a.) An outer most layer comprising...
- b.) Adjacent to the outermost layer
- c.) Below the outer most layer a layer comprising
- d.) And an inner most layer comprising...

Specification (maintained and restated for convenience)

2. The disclosure is objected to because of the following informalities: The uses of Trademarks/Tradenames have been noted throughout this application. The specific name/mark should be in ALL CAPS, followed by either a trademark or copyright symbol and be accompanied by the generic terminology. Although the use of Trademarks/Tradenames is permissible in patent applications, the proprietary nature of the marks/names should be

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respected and every effort made to prevent their use in any manner, which might adversely affect their validity as a trademark or tradename. To describe physical or other properties of material by mere use of trademark is objectionable since it has tendency to make trademark descriptive of product rather than leaving trademark to serve its traditional purpose, which is to identify product's source of origin. Appropriate correction is required.

Claim Rejections - 35 USC § 112(maintained and restated for convenience)

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 51-61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are very broadly claimed.

5. In Claim 51 specifically, and all dependant claims the term "fabric" does not appear to be positively recited. There is no structural or chemical composition stated. For all practical purposes at this time in the prosecution any fabric having any structure or composition reads on this limitation. Additionally, a "chemical barrier fabric" is claimed however, nothing is stated towards the structure or chemistry of the composite as a whole other than that it states multiple layers. Multiple layers of what? Fabric, film or both, and how many of each if that? And as the language is comprising; this could include a plethora of components which encompass "composite." The present language makes it appear as if the fabric is a crucial ingredient when the final composite is produced. Please clarify the claims to recite the same. As stated above the previous Examiner, made several 112-2 indefiniteness rejections which I have withdrawn, however, the claim language still is unclear as presently stated and thus when given its broadest interpretation it appears to be a composite which Applicant is calling a chemical barrier fabric, but as claimed appears to be


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something that may be joined with a fabric and is only a coating having resultant properties of melt flow rate, stress cracking and is impermeable. It is very confusing, because when relying on the specification for answers to what the composite may actually be made up of it appears that Applicant is desirous of coating a fabric (any fabric, having any structure and composition) with a thermoplastic polyolefin elastomer (in any amount and any percentage of compositional make up) which has the resultant properties of melt flow rate, stress cracking and is impermeable. And when using the term "impermeable" is one describing the composite as a whole to be impermeable or just the fabric layers?

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Arti Singh whose telephone number is 571-272-1483. The examiner can normally be reached on M-F 9-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ms. Arti Singh
Primary Examiner
Art Unit 1771

10/30/05

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